

REMARKS

In the Office Action mailed 4/13/01, Claims 1-13 were rejected as being obvious over the prior art under 35 U.S.C. § 103.

Applicant has made amendments to Claims 1, 2 and 5. Claims 10-13 have been cancelled. Applicant has further added new Claims 14-17.

Independent Claim 1 and Claims Dependent Thereon

These claims stand rejected under 35 U.S.C. § 103 as being obvious over Feng. Applicant respectfully traverses the rejection for reasons set forth after discussion of the teachings of this reference.

Feng, U.S. Patent No. 6,175,434 B1

Feng discloses an “Adaptive Infrared Communication Apparatus.” The Feng device is “fabricated as a monolithic integrated circuit in a single package in order to achieve a compact on a PCB (Printed Circuit Board—not shown).” *Column 3, Lines 23-27.* In addition to the conventional “output data module 3,” “input data module 5,” “LED drive module 7,” and a photodiode interface module 9,” the “device” further includes an integrated “adaptive configuration control module 11.” *Column 3, Lines 28-32.*

The “adaptive configuration control module 11 provides a programmable interface for programming the system configuration parameters of the device 1.” These

programmable parameters are disclosed as "includ[ing] sensitivity, bandwidth, and LED drive current." *Column 3, Lines 60-64.* The disclosed purpose or benefit provided by the inclusion of the "adaptive configuration control module 11" in the "device 1" is to allow "the communication chip to be adapted or reconfigured for optimal operation in response to changes in the environment without the need for removing or adding external components such as resistors." *Column 2, Lines 34-38.*

Summarizing, the disclosed *Feng* device: (1) is integrated into the infrared transceiver "device 1;" and (2) includes a "module 11" for adaptively reconfiguring the sensitivity, bandwidth and drive current of the transceiver "device 1." There is no discussion in *Feng* regarding the host devices' (e.g. laptop computers) application sets or communications protocols, and the need for compatibility in application sets and communications protocols in order that a pair of host devices might efficiently communicate.

Independent Claim 1 (as amended)

Applicant's Claim 1 recites (summarized, emphasis added, and presented in outline form for clarity) "a system for internally optimizing wireless communications between a pair of devices," comprising:

A. a first said device comprising:

- i. "detector means in communication with said first device application set group," the "detector means" being "for detecting the configuration of said application set in a second said device; and

stack group is the same as *Feng*'s protocol is in error, and the elements are therefore different.

b. There is not Suggestion to Alter. In order to successfully make out a *prima facie* case of obviousness, the Examiner must provide some reason, suggestion, or motivation from the prior art as a whole for the person of ordinary skill to have modified the cited references. As stated by the Federal Circuit:

“[o]bviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.”²

In the instant case, the Examiner has concluded that it would have “been obvious for an artisan of ordinary skill in the art at the time of the invention to provide multiple protocols and multiple applications in order to optimize communication between multiple devices.” Applicant respectfully asserts that since *Feng* has nothing to do with the protocol stack (as meant by Applicant)

Furthermore, although stating that “the use of multiple protocols and applications is well known,” the Examiner has failed to indicate his source for this knowledge. In fact, Applicant (in the specification) asserts that the problem is that the prior devices did not provide multiple application sets and stack versions. Applicant further asserts that the Examiner has used his personal knowledge in reaching his conclusion that the providing of multiple protocols within a single device is well-known. As such, Applicant respectfully requests that Examiner provide an affidavit as to the use of his personal knowledge in his taking this Official Notice.³

² See *In re Geiger*, 815 F.2d 686, 2 USPQ 2d 1276, 1278 (Fed. Cir. 1987).

³ 37 C.F.R. 1.107(b) “When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported,

Since the Examiner has failed to make out a *prima facie* case of obviousness with regard to Applicant's Amended Claim 1, this claim should be allowed.

Dependent Claims 2-4

These claims depend from novel and nonobvious Claim 1, and for at least this reason these claims, too, must be novel and nonobvious and must be allowed.

Independent Claims 5 and 14 and Claims Dependent Thereon

These claims recite, respectively, the method by which the system of Claim 1 operates, and a system for optimization of wireless (versus strictly infrared) communication between devices. Both Claims 5 and 14 recite limitations related to the selection of the optimum protocol stack in the device. As discussed above, nothing in *Feng* teaches or hints at optimizing this portion of the communications chain; *Feng* only relates to the performance tuning of the transceiver itself. As such, and for the same reasons as presented above in support of Claim 1, Claims 5 and 14 and those Claims dependent thereon are novel and nonobvious, and must be allowed.

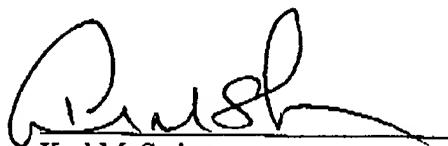
when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons."

Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests that the application be reconsidered, the claims be allowed, and the case passed to issue.

Respectfully submitted,

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